

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN W. FORESTER,

Plaintiff,
vs.

Case No. 2:08-cv-29

JIM KARNES, Sheriff, et al.,

Judge Michael H. Watson

Defendants.

ORDER

On December 17, 2008, the United States Magistrate Judge issued a *Report and Recommendation* recommending that plaintiff's motion for default and judgment, Doc. No. 14, be denied because defendants responded to the *Complaint* in a timely fashion. *Report and Recommendation*, Doc. No. 17.¹ This matter is now before the Court on plaintiff's objections to the *Report and Recommendation*, which the Court will consider *de novo*. Doc. No. 23.

In his objections, plaintiff complains that a copy of defendants' *Answer* was not served on him. The *Answer*, Doc. No. 15, contains a certificate of service indicating that a copy of the filing would be made upon plaintiff through the Court's electronic filing system. Doc. No. 15, p.7. However, plaintiff, who is not registered to file documents electronically, is entitled to a paper copy of any document filed. See F.R. Civ. P. 5; *Electronic Filing Policies and Procedures Manual for the United States District Court for the Southern District of Ohio*, §II(B)(3). Defendants therefore failed to properly serve plaintiff with a copy of their *Answer*.

Defendants' failure, however, does not justify entry of their default. Accordingly, the *Report and Recommendation*, Doc. No. 17, is **ADOPTED** and **AFFIRMED**. Plaintiff's motion for

¹The Court notes that plaintiff's motion was filed before the time for filing defendants' *Answer* had expired.

default and judgment, Doc. No. 14, is **DENIED**.

Defendants are **ORDERED** to serve a paper copy of their *Answer* on plaintiff and to document on the record that they have done so.



Michael H. Watson
Michael H. Watson, Judge
United States District Court